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SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1978

No. 78-223

National Labor Relations Board,

Petitioner,

v.

Baptist Hospital, Inc.

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

OPPOSITION TO MOTION TO INTERVENE

COMES NOW Baptist Hospital, Inc., Respondent, in the above-styled and numbered case and files this its Opposition to the Motion of Local 150-T, Service Employees International Union, AFL-CIO (hereinafter referred to as the "Union") to intervene in this case. Respondent opposes said Motion for the following reasons:

1. Although, the Union in its Motion asserts that it seeks the opportunity to defend, as a party, its interest, nowhere in said Motion is it alleged or does it appear that the Union has any unique or special interest, which will not be properly and adequately represented by the National Labor Relations Board, Petitioner.

2. The Union does not show or allege any compelling interest in its own right apart from its interest in a class with all other labor unions which interest is not properly represented by the Petitioner. State of New Jersey v. State of New York, 345 U.S. 369 (1953).

3. The National Labor Relations Board is charged with responsibility by statute of representing the public interest including the interest of employees, unions and employers alike. The NLRB, Petitioner here, seeks review as a "public agent" and is completely capable and adequate to represent any interest the movant Union or any other Union may have in the issues involved in this case. Amalgamated Utility Workers v. Consolidated Edison Company of New York, 309 U.S. 261, 269 (February 26, 1940).

4. The Union failed to exercise its right to intervene in the court below and offers no acceptable or justifiable excuse for having failed to do so.

5. Any interest of the movant Union or any other Union in the issues involved herein, have been previously submitted to the court in Beth Israel Hospital v. NLRB, 425 U.S. 940 (March 27, 1978).

While the Union may have a general interest in rules relating to the solicitation of employees for union membership, it has no interest greater than or apart from other Unions, employees and employers in the same subject matter. The NLRB, Petitioner here, is charged with the responsibility and is presumed to represent the interest, not only of the Union moving to intervene, but of all other unions as well as the public interest in the issues involved herein. "The Board acts in a public capacity to give effect to the declared public policy of the Act... " National Licorice Company v. NLRB, 309 U.S. 350, 362 (March 4, 1940).

For all of the foregoing reasons, we submit that the Union's Motion to Intervene should be denied.

Respectfully submitted,

ELARBEE, CLARK & PAUL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of February, 1979, copies of the Opposition to Motion to Intervene were mailed air mail, postage prepaid, to the following:

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All parties required to be served have been served.

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